

Internal Revenue Service

Department of the Treasury

District
Director

1100 Commerce St., Dallas, Texas 75242

Date: JAN 25 1995

Person to Contact:

Telephone Number:

Refer Reply To:

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information presented indicates that you were organized on [REDACTED] as a nonprofit corporation in the State of [REDACTED]. Your Articles of Incorporation state you are organized exclusively for charitable, educational and religious purposes within the meaning of section 501(c)(3). The nature of the activities for which the corporation is organized is to provide an organization for the purpose of publishing a journal dealing with issues of Christian values as they relate to health care, medical education, and research; for the purpose of stimulating research in areas of such concern. Your organization has no members and is controlled by [REDACTED] directors who are also editors. The organization will be supported by payments from the publisher of the journal for the editorial work.

The organization will begin publication in [REDACTED]. The journal is to be published by [REDACTED], a for-profit publisher. [REDACTED] will pay the organization \$[REDACTED] for the work of putting the journal together. In return, the publisher receives the copyright, publishing and selling rights. [REDACTED] will market the journal and will price the journal in a competitive manner.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

"(d)(3)(i) In general. The term "educational", as used in section 501(c)(3), relates to -

- (a) The instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (b) The instruction of the public on subjects useful to the individual and beneficial to the community.

In Revenue Ruling 66-104 an organization which makes funds available to authors and editors for preparing teaching materials and writing textbooks, and, under the terms of the contract with the publisher, receives royalties from sales of the published materials and then shares them with those individuals, does not qualify for exemption from Federal income tax as a charitable, educational or literary

organization under section 501(c)(3) of the Code.

In Revenue Ruling 67-4 an organization was formed for the purpose of encouraging basic research in specific types of physical and mental disorders, to improve educational procedures for teaching those affected with such disorders, and to disseminate educational information about such disorders. This is accomplished by publishing a journal which contains abstracts of current information from the world's medical and scientific publications. The journal is sold, below cost to the public. The distribution of the abstracts is carried out essentially in a "charitable" manner, in the sense that there is a public benefit derived from the distribution. The charges for the publication recover only a portion of the costs. Thus, in Rev. Rul. 67-4 the organization's method of distributing its medical journal, by charging amounts for the publication which allowed only recovery of a portion of the costs, was the primary factor relied upon in distinguishing that organization's activities from ordinary commercial practices. Accordingly, the organization qualifies for exemption from Federal income tax under section 501(c)(3) of the Code.

In order to be described in IRC 501(c)(3), a publishing organization must be operated exclusively for charitable purposes. This includes religious or educational purposes. In Revenue Ruling 67-4, 1967 -1 C.B. 121, the Service recognized four criteria indicating that publishing activities are directed to the attainment of purposes specified in IRC 501(c)(3). These criteria are: (1) The content of the publication must be educational; (2) The preparation of materials must follow methods generally accepted as "educational" in character; (3) The distribution of the materials must be necessary or valuable in achieving the organization's exempt purposes; and (4) The manner in which the distribution is accomplished must be distinguishable from ordinary commercial publishing practices. Under this standard, it is not sufficient that a particular publication be educational, since books generally have this attribute to a greater or lesser degree.

Based on the factors discussed above and the information submitted with your application, we have concluded that [REDACTED] is not organized and/or operated exclusively for section 501(c)(3) purposes because your organization did not meet the fourth requirement of Revenue Ruling 67-4. Your organization's publishing activities is using standard commercial techniques. [REDACTED] has tried to price the journal in a competitive manner or to return a profit. Your publisher receives the copyright, publishing and selling rights.

If an organization's primary purpose is an exempt purpose, publishing activities substantially related to the attainment of that purpose will not be in ordinary commercial operations. Both religious and educational publishing organizations must meet the fourth requirement of Rev. Rul. 67-4; that is their activities must be distinguishable from the activities of an ordinary commercial publishing operation. Therefore, we conclude that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

You are required to file Form 1120, U.S. Corporate Income Tax Returns.

Contributions to your organization are not deductible under section 170 of the Code.

If you do not agree with these conclusions, you may, within 30 days from the date of

[REDACTED]

this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Code as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If this determination letter becomes a final determination, we will notify the appropriate State Officials, as required by section 6104(c) of the Code, that based on the information we have, we are unable to recognize you as an organization of the type described in Code section 501(c)(3).

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you have any further questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Sincerely yours,

[REDACTED]
District Director

Enclosures:
Form 6018
Publication 892